

Permit Number: GP-39

Effective Date: January 29, 1999

Expiration Date: September 29, 2000

Name of Applicant: General Public, State of Maine

AMENDMENT TO
DEPARTMENT OF THE ARMY
STATE OF MAINE
PROGRAMMATIC GENERAL PERMIT

Based on experience and after coordination with the U.S. Environmental Protection Agency, U.S. Fish and Wildlife Service, and the National Marine Fisheries Service, the ME PGP is hereby modified as follows:

All proactive saltmarsh restoration projects of any size, with the purpose of restoring or enhancing the natural functions and values of the wetland, may be reviewed under Category II. If the Corps, in coordination with Federal resource agencies, determines that a proposed saltmarsh restoration project will have more than minimal adverse impacts on the environment or public interest factors, an Individual Permit will be required.

All other conditions of the original ME PGP remain in full force and effect.

DISTRICT ENGINEER

DATE

Permit No: GP-39

Effective Date: Sept. 29, 1995
Revised Date: October 20, 1997
Expiration Date: September 29, 2000

Name of Applicant: General Public, State of Maine

DEPARTMENT OF THE ARMY PROGRAMMATIC GENERAL PERMIT STATE OF MAINE

The New England Division of the U.S. Army Corps of Engineers hereby incorporates an ***amendment*** to the programmatic general permit that expedites review of minimal impact work in coastal and inland waters and wetlands within the State of Maine. Activities with minimal impacts, as specified by the terms and conditions of this general permit and on the attached DEFINITION OF CATEGORIES sheets, are either non-reporting (provided required local and state permits are received), or are to be screened by the Corps and Federal Resource Agencies for applicability under the general permit. The Corps individual permit review process, and activities exempt from Corps jurisdiction are not affected by this general permit. All amendments to the original 1995 ME PGP are shown as ***italicized***.

Activities Covered: work and structures that are located in, or that affect, navigable waters of the United States (regulated by the Corps under Section 10 of the Rivers and Harbors Act of 1899) and the discharge of dredged or fill material into waters of the United States (regulated by the Corps under Section 404 of the Clean Water Act), and the transportation of dredged material for the purpose of disposal in the ocean (regulated by the Corps under Section 103 of the Marine Protection, Research and Sanctuaries Act).

Procedures:

A. State and Local Approvals

For projects authorized pursuant to this general permit, when the following state approvals are also required, they must be obtained in order for this general permit authorization to be valid (applicants are responsible for ensuring that all required state permits and approval have been obtained):

- (a) Maine Dept. of Environmental Protection Natural Resources Protection Act permit, including permit-by-rule and general permit authorizations; Site Location and Development Act permit.
- (b) Maine Dept. of Conservation, Land Use Regulatory Commission permit.
- (c) Maine Dept. of Marine Resources lease.
- (d) Maine Bureau of Public Lands, Submerged Lands Lease.

B. Corps Authorizations: Category I (Non-Reporting)

Work in Maine that is subject to Corps jurisdiction that meets the definition of Category I on the Definition of Categories sheets (attached) (which include inland water/wetland impacts up to 15,000 sq. ft.), and that meets all of this permit's other conditions, does not require separate application to the Corps of Engineers. For the first few years of implementation, the Corps, State and Federal Resource Agencies will be conducting joint screening of the State's PBR and Tier 1 applications (for projects impacting 4,300-15,000 sq. ft. of waters/wetlands), during the State's review period. If the applicant is not contacted by the State or the Corps for PBR's during the States 14 day review period, or for Tier 1 projects during the State's 30 day review period, Corps approval may be assumed and the project may proceed. This Federal screening of Category I projects will focus on projects impacting between **4,300 and 15,000 sq. ft. of water and/or wetlands, including PBR projects within this range** and will be conducted for a period of several years to monitor the State's implementation of its regulatory program changes. The Corps and the Federal Resource Agencies intend to evaluate the Category I process administered by the Maine Dept. of Environmental Protection (DEP) annually. Following the evaluations, the Corps will make a determination to continue screening all projects in the 4,300-15,000 sq. ft. impact range, or to modify or eliminate regular formal review by the Corps and/or Federal Resource Agencies for projects within this category. The Corps would then reduce its oversight to periodic spot checking and annual reviews. The lower level screening will continue until the Corps specifically determines to modify or eliminate the procedure. Refer to the Procedures Section at Paragraph E below for additional information regarding screening.

Note that the review thresholds under category I apply to single and complete projects only. (see condition 5). Also note that category I does not apply to projects occurring in a component of, or within 0.25 miles up and down stream of the main stem or tributaries of a river segment of the National Wild and Scenic River System (see condition 10, and page 12 for the listed rivers in Maine).

There are also restrictions on other national lands or concerns which must be met in order for projects to be eligible for authorization under this PGP. Refer to special conditions 6-13 under Paragraph F below.

Work that is not regulated by the State of Maine but that is subject to Corps jurisdiction, is eligible for Corps authorization under this PGP in accordance with the review thresholds and conditions contained herein.

Although category I projects are non-reporting, the Corps reserves the right to require an individual permit review if there are concerns for the aquatic environment or any other factor of the public interest (see condition 4 on Discretionary Authority). The Corps review or State/Federal screening process may also result in project modification, mitigation or other special conditions necessary to minimize impacts and protect the aquatic environment as a requirement for PGP approval.

C. Corps Authorization: Category II (screening)

For projects that do not meet the terms of Category I (which includes inland water/wetland impacts between 15,000 sq. ft. -3 acres), the Corps, State, and Federal Resource Agencies will conduct joint screening meetings to review applications. If projects are concurrently regulated by the DEP, applicants do not need to submit separate applications to the Corps. The screening will occur on a regular basis at the Corps or State offices. For projects not regulated by DEP, applicants must submit an application to the Corps Maine Project Office for a case-by-case determination of eligibility under this general permit (Category II). Category II projects may not proceed until written notification is received from the Corps. Category II projects which occur in a component of, or within 0.25 mile up or downstream of the main stem or tributaries of a river segment of the National Wild and Scenic River System will be coordinated with the National Park Service (see condition 10, and page 12 for listed rivers in Maine).

There are also restrictions on other national lands or concerns which must be met in order for projects to be eligible for authorization under this PGP. Refer to special condition 6-13 under Paragraph F below.

Category II applicants shall submit a copy of their application materials to the Maine Historic Preservation Commission at the same time, or before, they apply to the DEP or the Corps so that the project can be reviewed for the presence of historic/archaeological resources in the project area that may be affected by the proposed work. Applications to the DEP or the Corps should include information to indicate that this has been done (applicant's statement or copy of cover letter to Maine Historic Preservation Commission).

The Corps may require additional Information on a case-by-case basis as follows:

- (a) purpose of project;
- (b) 8 1/2 " by 11" plan views of the entire property and project limits with existing and proposed conditions (legible, reproducible plans required);
- (c) wetland delineation for the site, information on the basis of the delineation, and calculations of waterway and wetland impact areas (see Condition 2 on page 6);
- (d) typical cross-section views of all wetland and waterway fill areas and wetland replication areas;
- (e) delineation of submerged aquatic vegetation, e.g., eel grass beds, in tidal waters;
- (f) amount, type and source of fill material to be discharged into waters and wetlands, including the volume of fill below the high tide line in coastal waters;
- (g) mean low, mean high water and high tide elevations in navigable waters;
- (h) limits of any Federal navigation project in the vicinity and coordinates for the limits of the proposed work closest to the Federal project;
- (i) for dredging projects include the volume of material and area in square feet to be dredged below mean high water, existing and proposed water depths, type of dredging equipment to be used, nature of material (e.g. silty sand), any existing sediment grain size and bulk sediment chemistry data for the proposed or any nearby projects, information on the location and nature of municipal or industrial discharges and occurrences of any contaminant spills in or near the project area, location of the disposal site (include locus sheet).

Additional information may be requested by the Corps; dredging applicants may be required to conduct a shellfish and/or eel grass survey, and sediment testing, including physical, chemical and biological testing.

For Cranberry Production projects, the following specific information must be submitted to the Corps:

a. Application and Drawings:

- 1. Department of the Army ENG FORM 4345**
- 2. A plan view of the entire project including existing beds, dams, dikes, ditches, roads, and ponds.**
- 3. Typical cross section views of all fill areas, including beds, dams, ditches, and ponds.**
- 4. Length, width and depth of beds, dikes and ditches.**
- 5. Delineation of Federal wetlands boundaries using the 1987 Corps of Engineers Wetland Delineation Manual with a calculation of area of wetlands affected (also depict wetlands on the plan view).**
- 6. Amount, type and source of fill material to be discharged into waters and wetlands.**
- 7. Type and size of water control structure and placement and description of water source.**

b. Other Information Required:

- 1. A soil erosion and sedimentation control plan.**
- 2. A plan for water recovery system, including either a reservoir or the cranberry beds themselves that are designated to contain the runoff from the project area during a 10-year, 24-hour storm event.**
- 3. Design specifications for water intake and outfall pipes and ditches.**
- 4. A plan to maintain minimum base flows for each water supply area. Minimum base flow is the aquatic base flow for that water shed, or flow that can be shown to protect designated uses and characteristics.**
- 5. A water budget including source of water, quality removed from the source, projected impact on adjacent wetlands (draw down, etc.) backup water supply source.**
- 6. Identification of Soil Series, confirmed by field check.**

D. Corps Authorization: Category III (Individual Permit)

Work that is in the INDIVIDUAL PERMIT category on the attached DEFINITION OF CATEGORIES sheets, or that does not meet the terms and conditions of this general permit, will require an application for an individual permit from the Corps of Engineers (see 33 CFR Part 325.1). The screening procedures outlined above will only serve to delay project review in such cases. The appropriate application materials (including the Corps application form) should be submitted by the applicant at the earliest possible date; general information and application forms can be obtained at (207) 623-8367. Individual water quality certification and coastal zone management consistency concurrence will be required from the State of Maine.

E. State-Federal Screening Procedures:

The Corps intends to utilize the application information required by DEP for its regulatory program to the maximum extent practicable, and the Corps normally will not be interacting with an applicant who is concurrently making application to the DEP. Projects not regulated by DEP, but needing Corps of Engineers approval, **must apply directly to the Corps**. The joint screening meeting for both Category I and II projects will occur regularly at the Corps or the DEP offices and will involve representatives from the DEP, the Corps, the U.S. Environmental Protection Agency, the U.S. Fish and Wildlife Service, and the National Marine Fisheries Service.

For those Category I projects subject to screening, the Corps and Federal Resource Agencies will classify the project as: 1) approveable under the PGP as proposed; 2) needs additional information, including possible project modification, mitigation or other special conditions to minimize impacts; or 3) exceeds the terms or conditions of the PGP, including the minimal effects requirement, and an individual permit review will be required. Unless the project is approved as proposed, the DEP and Corps will contact the applicant within the State's 14 (PBR) or 30 (Tier 1) day review period to discuss the concerns raised. If the applicant is unable to resolve the concerns, the Corps, independently or at the request of one of the Federal Resource Agencies, will require an individual permit for the project. The applicant will be notified of this in writing, along with the information about submitting the necessary application material.

For Category II Projects, the Corps and Federal Resource Agencies will classify the project within the State's 60 day review period as: 1) approveable under the PGP as proposed; 2) needs additional information, including possible project modification, mitigation or other special conditions to minimize impacts; or 3) exceeds the terms or conditions of the PGP, including the minimal effects requirement, and an individual permit review will be required. In addition, the Corps retains the ability to exercise its discretionary authority and require an individual permit, irrespective of whether the terms and conditions of this general permit are met, based on concerns for the aquatic environment or any other factor of the public interest (see Condition 4 on Discretionary Authority.) All Category II projects must receive written approval from the Corps before work can proceed. If the project is not approveable as proposed, the DEP and Corps will contact the applicant to discuss the concerns raised. If the applicant is unable to resolve the concerns, the Corps, independently or at the request of the Federal Resource

Agencies, will require an individual permit for the project. The applicant will be notified of this in writing, along with information about submitting the necessary application materials. The comments from the Federal Resource Agencies to the Corps may be verbal initially, and must be made within 10 working days of the screening meeting. These comments must be confirmed in writing within 10 calendar days of the verbal response if the Resource Agency(ies) will request an individual permit. In both cases (Category I and II) the Federal Resource Agency's comments must reflect a concern within their area of expertise, state the species or resources that could be impacted by the project, and describe the impacts that either individually or cumulatively will be more than minimal.

For Category II projects which involve construction of solid fill structures or discharge of fills along the coast which may extend the coastline or baseline from which the territorial sea is measured, coordination between the Corps and Minerals Management Service (MMS), Continental Shelf (OCS) Survey Group will be needed (pursuant to the Submerged Lands Act, 43 U.S.C., Section 1301-1315, 33 CFR 320.4(f). During the screening period, the Corps will forward project information to MMS for their review. MMS will coordinate their determination with the Department of the Interior (DOI) Solicitor's Office. The DOI will have 15 calendar days from the date MMS is in receipt of project information to determine if the baseline will be affected. No notification to the Corps within the 15 day review period will constitute a "no affect" determination. Otherwise, the solicitor's notification to the Corps may be verbal but must be followed with a written confirmation within 10 business days from the date of the verbal notification. This procedure will be eliminated if the State of Maine provides a written waiver of interest in any increase in submerged lands caused by a change in the baseline resulting from solid fill structures or fills authorized under this general permit.

F. Programmatic General Permit Conditions:

The following conditions apply to activities authorized under the Programmatic general Permit, including all Category I (non-reporting) and Category II (screening) activities:

GENERAL REQUIREMENTS:

1. Other Permits. Authorization under this general permit does not obviate the need to obtain other Federal, state, or local authorizations required by law.

2. Applicability of this general permit shall be evaluated with reference to Federal jurisdictional boundaries. Applicants are responsible for ensuring that the boundaries used satisfy the federal criteria defined at 33 CFR 328-329.

3. Minimal Effects. Projects authorized by this general permit shall have minimal individual and cumulative adverse environmental impacts as determined by the Corps.

4. Discretionary Authority. Notwithstanding compliance with the terms and conditions of this permit, the Corps of Engineers retains discretionary authority to

require an individual permit **for any project** based on concerns for the aquatic environment or for any other factor of the public interest. This authority is invoked on a case-by-case basis whenever the Corps determines that the potential consequences of the proposal warrant individual review based on the concerns stated above. This authority may be invoked for projects with cumulative environmental impacts that are more than minimal, or if there is a special resource or concern associated with a particular project, that is not already covered by the remaining conditions of the PGP, that warrants greater review. Whenever the Corps notifies an applicant that an individual permit may be required, authorization under this general permit is void, and no work may be conducted until the individual Corps permit is obtained, or until the Corps notifies the applicant that further review has demonstrated that the work may proceed under this general permit.

5. Single and Complete Projects. This general permit shall not be used for piecemeal work and shall be applied to single and complete projects. All components of a single project shall be treated together as constituting one single and complete project. All planned phases of multi-phased projects shall be treated together as constituting one single and complete project. This general permit shall not be used for any activity that is part of an overall project for which an individual permit is required.

NATIONAL CONCERNS:

6. St. John/St. Croix Rivers. Work within the Saint John and Saint Croix River basins that requires approval of the International Joint Commission. This includes any temporary or permanent use, obstruction or diversion of international boundary waters which could affect the natural flow or levels of waters on the Canadian side of the line, as well as any construction or maintenance of remedial works, protective works, dams, or other obstructions in waters downstream from boundary waters, when the activity could raise the natural level of water on the Canadian side of the boundary.

7. Historic Properties. **Any activity authorized by this general permit shall comply with Section 106 of the National Historic Preservation Act. Information on the location and existence of historic resources can be obtained from the Maine Historic Preservation Commission and the National Register of Historic Places.**

Applicants with projects which will undergo the screening process (Category II) shall submit a copy of their application materials to the Maine Historic Preservation Commission, 55 Capitol Street, State House Station 65, Augusta, Maine 04333, to be reviewed for the presence of historic/archaeological resources in the permit area that may be affected by the proposed work. The Corps will then be notified by the Commission if there are State concerns that the proposed work will have an effect on historic resources. The applicant should include with their application, either a copy of their cover letter or a statement of having sent their application

material to the Commission.

If the permittee, during construction of work authorized herein, encounters a previously unidentified archaeological or other cultural resource within the area subject to Department of the Army jurisdiction that might be eligible for listing in the National Register of Historic Places, he/she shall stop work and immediately notify the District Engineer and the Maine Historic Preservation Commission.

8. National Lands. Activities authorized by this general permit shall not impinge upon the value of any National Wildlife Refuge, National Forest, or any area administered by the U.S. Fish and Wildlife Service, U.S. Forest Service, or National Park Service.

9. Endangered Species. No activity is authorized under this general permit which may affect a threatened or endangered species or a species proposed for such designation, as identified under the Federal Endangered Species Act (ESA); or which is likely to destroy or adversely modify the critical habitat of such species; or which would result in a "taking" of any threatened or endangered species of fish or wildlife, or which would result in any other violation of Section 9 of the ESA protecting threatened or endangered species of plants. Applicants shall notify the Corps if any listed species or critical habitat is in the vicinity of the project and shall not begin work until notified by the District Engineer that the requirements of the Endangered Species Act have been satisfied and that the activity is authorized. Information on the location of threatened and endangered species and their critical habitat can be obtained from the U.S. Fish and Wildlife Service and National Marine Fisheries Service (addresses attached, page 12).

10. Wild and Scenic Rivers. **Any activity** that occurs in a component of, or within 0.25 mile up or downstream of the main stem or tributaries of a river segment of the National Wild and Scenic River System, **must be authorized by the Corps under the procedures of Category II of this general permit regardless of size of impact.** This condition applies to both designated wild and scenic rivers and rivers designated by Congress as study rivers for possible inclusion while such rivers are in an official study status. The Corps will consult with the National Park Service (NPS) with regard to potential impacts of the proposed work on the resource values of the wild and Scenic river. The culmination of this coordination will be a determination by the NPS and the Corps that the work: (1) may proceed as proposed; (2) may proceed with recommended conditions; or (3) could pose a direct and adverse effect on the resource values of the river, and an individual permit is required. If preapplication consultation between the applicant and the NPS has occurred whereby the NPS has made a determination that the proposed project is appropriate for authorization under this PGP (with respect to wild and scenic river issues), this determination should be furnished to the Corps with submission of the application. The address of the NPS can be found on Page 12 of this permit.

11. Federal Navigation Project. Any structure or work that extends closer to the horizontal limits of any Corps navigation project than a distance of three times the project's authorized depth (see attached map for locations of these projects) shall be subject to removal at the owner's expense prior to any future Corps dredging or the performance of periodic hydrographic surveys.

12. Navigation. There shall be no unreasonable interference with navigation by the existence or use of the activity authorized herein, and no attempt shall be made by the permittee to prevent the full and free use by the public of all navigable waters at or adjacent to the activity authorized herein.

MINIMIZATION OF ENVIRONMENTAL IMPACTS:

13. Minimization. Discharges of dredged or fill material into waters of the United States shall be avoided and minimized to the maximum extent practicable.

14. Work in Wetlands. Heavy equipment working in wetlands shall be avoided if possible, and **if required shall be placed on mats, or other measures taken** to minimize soil and vegetation disturbance. Disturbed areas in wetlands shall be restored to preconstruction contours and conditions upon completion of the work. In many cases the mats are considered a discharge of fill material and must be included in the quantification of impact area and authorized by this general permit.

15. Temporary Fill. Temporary fill in waters and wetlands authorized by this general permit (e.g. access roads, cofferdams) shall be properly stabilized during use to prevent erosion. Temporary fill in wetlands shall be placed on geotextile fabric laid on existing wetland grade. Temporary fills shall be disposed of at an upland site, suitably contained to prevent erosion and transport to a waterway or wetland. Temporary fill areas shall be restored to their original contours.

16. Sedimentation and Erosion Control. Adequate sedimentation and erosion control management measures, practices and devices, such as phased construction, vegetated filter strips, geotextile silt fences or other devices, shall be installed and properly maintained to reduce erosion and retain sediment on-site during and after construction. They shall be capable of preventing erosion, of collecting sediment, suspended and floating materials, and of filtering fine sediment. These devices shall be removed upon completion of work, and the disturbed areas shall be stabilized. The sediment collected by these devices shall be removed and placed at an upland location, in a manner that will prevent its later erosion into a waterway or wetland. All exposed soil and other fills shall be permanently stabilized at the earliest practicable date.

17. Waterway Crossings. (a) All temporary and permanent crossings of waterbodies shall be suitably culverted, bridged, or otherwise designed to withstand and to prevent the restriction of high flows, and to maintain existing low flows, and so as not to obstruct the movement of aquatic life indigenous to the waterbody beyond the actual duration of construction. (b) Temporary bridges, culverts, or cofferdams shall be used for equipment access across streams (note: areas of fill and/or cofferdams must be included in total waterway/wetlands impacts to determine applicability of this general permit). (c) For projects that otherwise meet the terms of Category I, in-stream construction work shall be conducted during the low flow period July 15 - October 1 in any year; and isolated from flowing water to prevent downstream sedimentation; projects that are not to be conducted during that time period or which require open trench excavation are ineligible for Category I and shall be screened pursuant to Category II, regardless of the waterway and wetland fill and/or impact area.

18. Discharge of Pollutants. All activities involving any discharge of pollutants into waters of the United States authorized under this general permit shall be consistent with applicable water quality standards, effluent limitations, standards of performance, prohibitions, and pretreatment standards and management practices established pursuant to the Clean Water Act (33 U.S.C. 1251), and applicable state and local laws. If applicable water quality standards, limitations, etc., are revised or modified during the term of this permit, the authorized work shall be modified to conform with these standards within 6 months of the effective date of such revision or modification, or within a longer period of time deemed reasonable by the District Engineer in consultation with the Regional Administrator of the Environmental Protection Agency. Applicants may presume that state water quality standards are met with issuance of the 401 Water Quality Certification.

19. Spawning Areas. Discharges into known 1) fish and shellfish spawning or nursery areas; and 2) amphibian and waterfowl breeding areas, during spawning or breeding seasons, shall be avoided, and impacts to these areas shall be avoided or minimized to the maximum extent practicable during all times of the year.

20. Storage of Seasonal Structures. Coastal structures such as pier sections, floats, etc., that are removed from the waterway for a portion of the year shall be stored in an upland location, located above mean high water and not in salt marsh.

21. Environmental Values. The permittee shall make every reasonable effort to carry out the construction or operation of the work authorized herein in a manner so as to maintain as much as is practicable, and to minimize any adverse impacts on, existing fish, and wildlife, and natural environmental values.

PROCEDURAL CONDITIONS:

22. For Cranberry development projects authorized under the PGP, the following conditions apply:

- 1. If a cranberry bog is abandoned for any reason, the area must be allowed to convert to natural wetlands unless an individual permit is obtained from the Corps of Engineers allowing the discharge of fill for an alternate use.**
- 2. No stream diversion shall be allowed under this permit.**
- 3. No impoundment of perennial streams shall be allowed under this permit.**
- 4. The discharge(s) authorized in this permit shall be directly related to the development or expansion of cranberry production activities in Maine.**
- 5. The project shall be designed and constructed to not cause flood damage on adjacent properties.**

23. Inspections. The permittee shall permit the District Engineer or his authorized representative(s) to make periodic inspections at any time deemed necessary in order to ensure that the work is being performed in accordance with the terms and conditions of this permit. The District Engineer may also require post-construction engineering drawings for completed work, and post-dredging survey drawings for any dredging work. **To facilitate these inspections, the attached work notification form should be filled out and returned to the Corps for all Category II projects.**

24. Maintenance. The permittee shall maintain the work or structures authorized herein in good condition, including maintenance to ensure public safety. Dredging projects: note that this does not include maintenance of dredging projects. Maintenance dredging is subject to the review thresholds described on the attached DEFINITION OF CATEGORIES sheets and/or any conditions included in a written Corps authorization.

25. Property Rights. This permit does not convey any property rights, either in real estate or material, or any exclusive privileges, nor does it authorize any injury to property or invasion of rights or any infringement of federal, state, or local laws or regulations. **If property associated with work authorized by the PGP is sold, the PGP authorization is automatically transferred to the new property owner. The new property owner should contact the Corps in writing with this information so we can update our files accordingly. No acknowledgement from the Corps is necessary.**

26. Modification, Suspension, and Revocation. This permit may be either modified, suspended, or revoked in whole or in part pursuant to the policies and procedures of 33 CFR 325.7; and any such action shall not be the basis for any claim for damages against the United States.

27. Restoration. The permittee, upon receipt of a notice of revocation of authorization under this permit, shall restore the wetland or waterway to its former conditions, without expense to the United States and as directed by the Secretary of the Army or his authorized representative. If the permittee fails to comply with such a directive, the Secretary or his designee may restore the wetland or waterway to its former condition, by contract or otherwise, and recover the cost from the permittee.

28. Special Conditions. The Corps, independently or at the request of the Federal Resource Agencies, may impose other special conditions on a project authorized pursuant to this general permit that are determined necessary to minimize adverse environmental effects or based on any other factor of the public interest. Failure to comply with all conditions of the authorization, including special conditions, will constitute a permit violation and may subject the permittee to criminal, civil, or administrative penalties including removal and restoration.

29. False or Incomplete Information. If the Corps makes a determination regarding the eligibility of a project under this permit, and subsequently discovers that it has relied on false, incomplete, or inaccurate information provided by the permittee, the permit shall not be valid, and the government may institute appropriate legal proceedings.

30. Abandonment. If the permittee decides to abandon the activity authorized under this general permit, unless such abandonment is merely the transfer of property to a third party, he/she must restore the area to the satisfaction of the District Engineer.

31. Enforcement cases. This general permit does not apply to any existing or proposed activity in Corps jurisdiction associated with an on-going Corps of Engineers enforcement action, until such time as the enforcement action is resolved or the Corps determines that the activity may proceed independently without compromising the enforcement action.

DURATION OF AUTHORIZATION/GRANDFATHERING:

32. Duration of Authorization. Activities authorized under this general permit that have been commenced (i.e., are under construction) or are under contract to commence in reliance upon this authorization will remain authorized provided the activity is completed within twelve months of the date of the general permit's expiration, modification, or revocation, unless discretionary authority has been exercised on a case-by-case basis to modify, suspend, or revoke the authorization in accordance with 33 CFR 325.2(e)(2). Activities completed under the authorization of the general permit that was in effect at the time the activity was completed will continue to be authorized by the general permit

33. Previously Authorized Activities. (a) Activities which have commenced, i.e. are under construction or are under contract to commence, prior to the issuance date of this general permit, in reliance upon the terms and conditions of the Corps

Nationwide permit authorizations, or the previous Maine SPGP shall remain authorized provided the activity is completed within twelve months of the date of issuance of this general permit, unless discretionary authority has been exercised on a case-by-case basis to modify, suspend, or revoke the authorization in accordance with Condition 4. The applicant must be able to document to the Corps satisfaction that the project was under construction or contract by the appropriate date. (b) Projects that have received written verification or approval from the Corps, based on applications made to the Corps prior to issuance of this general permit, for the previous Maine SPGP, Nationwide permits, regional general permits, or Letters of Permission shall remain authorized as specified in each authorization. (c) Activities authorized pursuant to 33 CFR Part 330.3 (activities occurring before certain dates) are not affected by this general permit.

DISTRICT ENGINEER

DATE

CONTACTS FOR MAINE PROGRAMMATIC GENERAL PERMIT:

U.S. Army Corps of Engineers
Maine Project Office
675 Western Avenue #3
Manchester, Maine 04351
207-623-8367 or 8124
Fax # 207-623-8206

Federal Endangered Species:
U.S. Fish and Wildlife Service
Maine Field Office
1033 South Main Street
Old Town, Maine 04468
207-827-5938

National Marine Fisheries Service
One Blackburn Drive
Gloucester, Massachusetts
01939
978-281-9300

Maine Historic Preservation Commission
55 Capitol Street
State House Station 65
Augusta, Maine 04333
207-287-2132

Maine Department of Environmental Protection
(For State Permits and Water Quality Certifications)
Natural Resources Division
Bureau of Land and Water Quality Control
State House Station 17
Augusta, Maine 04333
207-287-2111

Southern Maine Regional Office
312 Canco Road
Portland, Maine 04103
207-822-6300

Eastern Maine Regional Office
106 Hogan Road
Bangor, Maine 04401
207-941-4570

Northern Maine Regional Office
1235 Central Drive
Skyway Park
Presque Isle, Maine 04769
207-764-0477

For CZM Determinations
State Planning Office
Coastal Program
184 State Street
State House Station 38
Augusta, Maine 04333
207-287-1009

Maine Dept. Marine Resources
(For Aquaculture Leases)
McKown Point
Boothbay Harbor, Maine 04575
207-633-9500

National Wild/Scenic Rivers System (Designated River in Maine):
Allagash River beginning at Telos Dam continuing to Allagash checkpoint at Eliza Hole Rapids, approximately 3 miles upstream of the confluence with the St. John River. Length = 92 miles.

DEFINITION OF CATEGORIES

	CATEGORY I	CATEGORY II	INDIVIDUAL PERMIT
A. INLAND WATERS AND WETLANDS (WATERS OF THE US) (1)			
(a) NEW FILL/EXCAVATION DISCHARGES	Less than 15,000 s.f. inland waterway and/or wetland fill and secondary impacts (e.g. areas drained, flooded or cleared). Impact area includes all temporary and permanent fill and excavation discharges. In-stream work limited to Jul 15-Oct 1.(2)	15,000 s.f. to 3 acres inland waterway and/or wetland fill and secondary impacts (e.g. areas drained, flooded or cleared). Includes temporary, permanent fill and excavation discharges. Time of year restrictions determined case-by-case.	Greater than 3 acre inland waterway and/or wetland fill and secondary impacts (e.g. area drained, flooded or cleared). Includes temporary, permanent fill and excavation discharges. (8)
(b) BANK STABILIZATION PROJECTS	Inland bank stabilization less than 500 ft. length and less than 1 c.y. fill per linear foot below ordinary high water, provided no wetland fill.	Stabilization exceeding category 1.	
(c) REPAIR AND MAINTENANCE OF AUTHORIZED FILLS	Repair/maintenance of existing, currently serviceable, authorized fills with no substantial expansion or change in use.	Replacement of non-serviceable fills, or repair/maintenance of serviceable fills, with expansion of any amount up to 1 acre, or change in use.	Replacement of non-serviceable fills, or repair/maintenance of serviceable fills, greater than 1 acre expansion.
B. TIDAL WATERS AND NAVIGABLE WATERS (3)			
(a) FILL		Up to 1 acre waterway or wetland fill and secondary impacts (e.g. areas drained, flooded or cleared). Includes temporary and permanent waterway fill. Temporary salt marsh impacts up to 1 acre. NO PERMANENT salt marsh, mudflat or veg. shallow fill.	Greater than 1 acre waterway fill and secondary impacts (e.g. areas drained, flooded or cleared). Includes temporary and permanent waterway fill. Temporary salt marsh fill/excavation discharge over 1 acre. Permanent salt marsh fill, any amount.

	CATEGORY I	CATEGORY II	INDIVIDUAL PERMIT
(b) REPAIR AND MAINTENANCE WORK	Repair/maintenance of existing currently serviceable, authorized fills and structures with no substantial expansion or change in use.	Repair of any non serviceable structure or fill, or repair/maintenance of serviceable structure or fill, with expansion up to 1 acre, or change in use.	Replacement of non serviceable structures or fills, or repair/maintenance of serviceable fills, greater than 1 acre.
(c) DREDGING	Maintenance dredging less than 1,000 c.y. with upland disposal; proper siltation controls used; limited to work between Nov1-Jan 15, no impact to special aquatic sites (4)	Maintenance dredging greater than 1,000 c.y., new dredging up to 10,000 c.y., or projects that do not meet Category I. Disposal includes upland, open water or beach nourishment (above mean high water), only if material is determined suitable. See #7	Maintenance dredging (any amount) in or affecting special aquatic site (4). New dredging greater than 10,000 c.y. or any amount in or affecting special aquatic sites (4). See #7
(d) MOORINGS	Private, non-commercial, non-rental single boat moorings not associated with any boating facility (5); provided not located in Federal Navigation Project; and no interference with navigation.	Moorings that do not meet the terms of category I: and moorings that meet the terms of category I that are located within a Federal anchorage.	Moorings within the horizontal limits, or with moored vessels that extend within the limits of Corps Federal Navigation Projects, except those in Federal anchorages under category II.
(e) PILE-SUPPORTED STRUCTURES AND FLOATS	Reconfiguration of existing authorized docks provided structures are not positioned over vegetated shallows (6) or salt marsh; provided floats supported off substrate at low tide. No dredging, additional slips or expansion allowed.	Private piers and floats for navigational access to waterway .	Structures/piers/floats that extend, or with docked/moored vessels that extend, within horizontal limits of Corps Navigation Project. Structures, including piers/floats, associated with a new or previously unauthorized boating facility (5).

SHEET 2/3

	CATEGORY I	CATEGORY II	INDIVIDUAL PERMIT
(f) MISCELLANEOUS	Temporary buoys, markers, floats, etc. for recreational use during specific events; provided they are removed within 30 days after use discontinued.	Structures/work in/affecting tidal/navigable waters that are not defined under any of the previous headings. Includes but not limited to: utility lines, aerial transmission lines, pipelines, outfalls, boat ramps, bridge fills/abutments, etc.	EIS REQUIRED BY CORPS. ANY PROJECT WHERE CORPS REQUIRES EIS FOR PERMIT ACTION REQUIRES INDIVIDUAL PERMIT.
MISC. CONT.	Coast Guard approved aids to navigation. Oil spill clean-up temporary structures/fill. Fish/wildlife harvesting structures/fill (As defined by 33 CFR 330, App A-4).	Shellfish/finfish, or other aquaculture facilities which are consistent with the Corps revised standard siting requirements and standard permit conditions dated 7/6/94, or as revised.	
MISC. CONT.	Scientific measurement devices and survey activities, such as exploratory drilling, surveying/sampling. Does not include oil/gas exploration and fills for roads/construction pads.		

FOOTNOTES:

1. Waters of the U.S. in inland areas: Inland rivers, streams, lakes, ponds and wetlands. ***Until indicated by written notice, the Corps will continue to screen projects impacting between 4,300 to 15,000 sq. ft. of inland waterway or wetlands with the federal resource agencies for a determination of eligibility.***
2. Any Project involving a dam, dike or water withdrawal/diversion is in category II, i.e. must be reported to the Corps.
3. Navigable Waters: waters that are subject to the ebb and flow of the tide, and Federally designated navigable waters (Penobscott River to Medway, Kennebec River to Moosehead Lake, portion of Umbagog Lake in Maine).
4. Special Aquatic Sites: Includes wetlands and salt marsh, mudflats, riffles and pools, and vegetated shallows (see 6 below).
5. Boating facilities: Facilities that provide, rent, or sell mooring space, such as marinas, yacht clubs, boat clubs, boat yards, town facilities, dockominimums, etc.
6. Vegetated Shallows: subtidal areas that support rooted aquatic vegetation such as eelgrass.
7. Amendments are shown as ***italicized***.
8. Typically, projects impacting viable wetlands exceeding 1 acre will need an individual permit. Projects involving widening, expansion or impacts to degraded or low value wetlands between 1-3 acres may be approved under Category II, subject to the Federal screening. The Corps recognizes and endorses the DEP Tier 2 upper thresholds of 1 acre.

WORK START NOTIFICATION FORM
(Minimum Advance Notice: Two Weeks)

MAIL TO: U.S. Army Corps of Engineers, New England District
Regulatory Branch
Policy Analysis /Technical Support Section
696 Virginia Road
Concord, Massachusetts 01742-2751

A Corps of Engineers Permit (No. _____) was issued to
The permit authorized

The people (e.g., contractor) listed below will do the work, and they understand the permit's conditions and limitations.

PLEASE PRINT OR TYPE

Name of Person/Firm:

Business Address:

Telephone Number: Area code () _____

Proposed Work Dates: Start: _____

Finish: _____

PERMITTEE'S SIGNATURE

DATE

PRINTED NAME

TITLE

FOR USE BY THE CORPS OF ENGINEERS

PM: _____ **Submittals Required:** _____

Inspection Recommendation: _____